II. REMARKS

A.   Status of the Claims

Claims 76-189 were pending at the time of the Action and are subject to a species election requirement as set forth in the Action. Claims 76-105, 122-149, 188 and 189 are withdrawn from consideration at this time in view of Applicants' election of species B as set forth in the species election below. Therefore, claims 106-121 and 150-187 are currently under consideration.
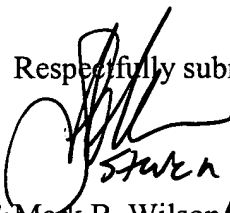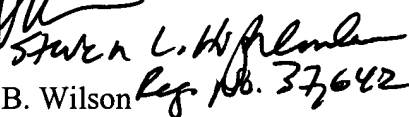
B.   Response to Species Election Requirement

In response to the species election requirement, which the Examiner imposed, Applicants elect without traverse species B, a nucleic acid encoding E1A protein. As set forth in the Action, claims 106-121 and 150-187, drawn to nucleic acid as the treatment agent and a pharmaceutical composition comprising nucleic acid encoding E1A gene product and a chemotherapeutic drug, specifically recite the elected species -- species B.

The Action further sets forth that claims 76-105, 122-149, 188 and 189 are generic with regard to both species A and B. These claims nonetheless read on the elected species B, and should thus be examined to the extent of the election. Further, Applicants reserve the right to have any and all dependent claims directed to the non-elected species examined in the present case if any of the above-mentioned generic claims or any other generic claims encompassing such non-elected species within their scope are found to be allowable.

C.   Conclusion

Applicants believe this to be a full and complete response to the Action dated March 18, 2004. Applicants respectfully request favorable consideration of this case in view of the above comments and amendments. Should the Examiner have any questions, comments, or suggestions relating to this case, the Examiner is invited to contact the undersigned Applicants' representative at (512) 536-3035.

Respectfully submitted,

Mark B. Wilson
Reg. No. 37,259
Attorney for Applicant

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas   78701
512.536.3035 (voice)
512.536.4598 (fax)

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